

SENATE BILL No. 249

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1-2-7; IC 6-6; IC 6-8.1-1-1.

Synopsis: Heavy equipment excise and rental tax. Provides that the owner of a motorized heavy equipment vehicle shall pay a motorized heavy equipment vehicle excise tax (excise tax), instead of the property tax, on the vehicle. Provides that the owner of a motorized heavy equipment vehicle is required to register the vehicle each year with the department of state revenue. Imposes a rental excise tax on the rental of taxable motorized heavy equipment vehicles. Provides a credit against the excise tax equal to the rental excise taxes collected on rentals of taxable motorized heavy equipment vehicles.

Effective: July 1, 2016.

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January 7, 2016, read first time and referred to Committee on Tax & Fiscal Policy.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 249

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 6-1.1-2-7, AS AMENDED BY P.L.1-2009,
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]: Sec. 7. (a) As used in this section, "nonbusiness
4 personal property" means personal property that is not:
5 (1) held for sale in the ordinary course of a trade or business;
6 (2) held, used, or consumed in connection with the production of
7 income; or
8 (3) held as an investment.
9 (b) The following property is not subject to assessment and taxation
10 under this article:
11 (1) A commercial vessel that is subject to the net tonnage tax
12 imposed under IC 6-6-6.
13 (2) A motor vehicle that is subject to the annual license excise tax
14 imposed under IC 6-6-5.
15 (3) A motorized boat or sailboat that is subject to the boat excise
16 tax imposed under IC 6-6-11.
17 (4) Property used by a cemetery (as defined in IC 23-14-33-7) if



the cemetery:

(A) does not have a board of directors, board of trustees, or other governing authority other than the state or a political subdivision; and

(B) has had no business transaction during the preceding calendar year.

(5) A commercial vehicle that is subject to the annual excise tax imposed under IC 6-6-5.5.

(6) Inventory.

(7) A recreational vehicle or truck camper that is subject to the annual excise tax imposed under IC 6-6-5.1.

(8) The following types of nonbusiness personal property:

(A) All-terrain vehicles.

(B) Snowmobiles.

(C) Rowboats, canoes, kayaks, and other human powered boats.

(D) Invalid chairs.

(E) Yard and garden tractors.

(F) Trailers that are not subject to an excise tax under:

(i) IC 6-6-5-5.5;

(ii) IC 6-6-5.1; or

(iii) IC 6-6-5.5.

(9) For an assessment date after December 31, 2016, a motorized heavy equipment vehicle (as defined in IC 6-6-15-3) that is subject to the motorized heavy equipment vehicle excise tax under IC 6-6-15.

SECTION 2. IC 6-6-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 15. Motorized Heavy Equipment Vehicle Excise Tax

Sec. 1. This chapter applies to the taxation of a motorized heavy equipment vehicle for each year after December 31, 2016.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Assessment date" has the meaning set forth in IC 6-1.1-1-2.

(2) "Department" refers to the department of state revenue.

(3) "Motorized heavy equipment vehicle" means a self-propelled motorized vehicle, including any attachment, with a declared gross weight of at least one thousand five hundred (1,500) pounds, that:

(A) is owned by a person that is in the business of renting motorized heavy equipment vehicles;



(B) is not intended to be permanently affixed to any real property and does not include equipment designed for mining use; and

(C) is not subject to registration under IC 9-18 for use on a public highway (as defined in IC 9-25-2-4).

(4) "Registration date" means May 1.

(5) "Renting" means any transfer of possession or control of a motorized heavy equipment vehicle for a period not to exceed three hundred sixty-five (365) days for consideration. The term includes the transfer of possession or control of a motorized heavy equipment vehicle for which the period of possession or control of the motorized heavy equipment vehicle is not defined by contract or for which there is an open ended contract regarding the period of possession or control of the motorized heavy equipment vehicle.

Sec. 3. (a) Except as provided in subsection (b), a motorized heavy equipment vehicle that is in Indiana on an assessment date shall be taxed under this chapter instead of IC 6-1.1.

(b) A motorized heavy equipment vehicle for which a property tax abatement deduction is granted under IC 6-1.1-12.1 for a particular assessment date shall not be taxed under this chapter in the year in which the assessment date occurs.

Sec. 4. (a) The owner of a motorized heavy equipment vehicle shall register with the department under section 5 of this chapter each motorized heavy equipment vehicle that the person owns and that is located in Indiana on the assessment date.

(b) The owner of a motorized heavy equipment vehicle shall file a report each year with the county assessor of each county in which the owner's motorized heavy equipment vehicles were located on the assessment date of that year. The owner shall file the report on a form prescribed by the department of local government finance and according to a schedule specified by the department of local government finance. The owner is required to list on the form only those motorized heavy equipment vehicles that under IC 6-1.1-2-7(b)(9) are not subject to assessment and property taxation for the assessment date.

Sec. 5. (a) To register a motorized heavy equipment vehicle, the owner of the motorized heavy equipment vehicle shall, on or before May 1:

(1) apply for a certificate of registration with the department on a form prescribed by the department that identifies the motorized heavy equipment vehicle by its vehicle



identification number or serial number, or both; and

(2) pay a filing fee in the amount specified in subsection (b) at the time the owner submits to the department the application for a certificate of registration.

(b) The amount of the filing fee for registering a motorized heavy equipment vehicle is equal to the following:

(1) If the owner registers not more than one hundred (100) motorized heavy equipment vehicles in the year, a total filing fee of one hundred dollars (\$100).

(2) If the owner registers more than one hundred (100) but not more than five hundred (500) motorized heavy equipment vehicles in the year, a total filing fee of five hundred dollars (\$500).

(3) If the owner registers more than five hundred (500) but not more than one thousand (1,000) motorized heavy equipment vehicles in the year, a total filing fee of one thousand dollars (\$1,000).

(4) If the owner registers more than one thousand (1,000) motorized heavy equipment vehicles in the year, a total filing fee of one thousand five hundred dollars (\$1,500).

(c) The department shall file each application received under subsection (a) and issue to the owner a certificate of registration that identifies the motorized heavy equipment vehicle by its vehicle identification number or serial number, or both.

(d) The department shall allow an owner to:

(1) electronically file an application for a certificate of registration; and

(2) pay the filing fee and excise tax due under this chapter by electronic funds transfer;

in a manner and in a format specified by the department.

Sec. 6. A certificate of registration for a motorized heavy equipment vehicle is valid for one (1) year and expires on the registration date of the calendar year following the year in which the certificate of registration is issued.

Sec. 7. (a) This section applies to a motorized heavy equipment vehicle that is required to be registered under section 4 of this chapter.

(b) Except as provided in subsection (e), there is imposed an annual license excise tax upon motorized heavy equipment vehicles to which this chapter applies. The excise tax is in lieu of any ad valorem property tax.

(c) The excise tax imposed under this section is due on May 1 of



the year immediately following the year in which the excise tax is incurred.

(d) The payment of the excise tax imposed by this section is in addition to all other obligations prescribed by law.

(e) The annual license excise tax is not imposed on a motorized heavy equipment vehicle for a year if a property tax abatement deduction is granted under IC 6-1.1-12.1 for the assessment date occurring in the same year.

Sec. 8. The excise tax imposed by section 7 of this chapter equals two percent (2%) of the taxable value of the motorized heavy equipment vehicle as determined under section 9 of this chapter.

Sec. 9. (a) The taxable value of a motorized heavy equipment vehicle is determined by multiplying:

(1) the acquisition cost of the motorized heavy equipment vehicle; by

(2) the applicable percentage set forth in subsection (b).

(b) The following table provides, for each year that a motorized heavy equipment vehicle is in service, the applicable percentage used to determine the taxable value of the motorized heavy equipment vehicle under subsection (a):

Years in Service	Percentage of Original Cost
1	40%
2	56%
3	42%
4	32%
5	24%
6	18%
7 or more	15%

Under this subsection, years in service are determined from the owner's date of acquisition of the motorized heavy equipment vehicle.

Sec. 10. (a) If the owner rents a motorized heavy equipment vehicle to others for use in Indiana, as determined by the state in which the lessee takes delivery, the owner is entitled to a credit against the total amount of excise tax liability owed by the owner for the motorized heavy equipment vehicles registered in a particular registration year under this chapter. The amount of the credit equals the total amount of motorized heavy equipment vehicle rental excise taxes:

(1) collected by the owner during the same registration year from the rental of motorized heavy equipment vehicles that



are registered under this chapter; and

(2) remitted by the owner to the department under IC 6-6-16.

For purposes of determining distributions of motorized heavy equipment excise tax revenue to the counties under section 12 of this chapter, the amount of the credit determined under this section is allocated to each county in the same manner as the motorized heavy equipment vehicle rental excise tax is distributed under IC 6-6-16-6(c).

(b) To the extent that the credit exceeds the amount of excise tax due under this chapter, the owner may carry forward the excess credit for up to seven (7) years to apply against the owner's excise tax in subsequent registration years.

Sec. 11. The department may establish procedures, prescribe forms, and adopt rules and regulations necessary for:

(1) the administration of this chapter;

(2) the collection of the tax imposed by this chapter; and

(3) the proper accounting of the tax imposed by this chapter.

Sec. 12. (a) The department shall allocate each motorized heavy equipment vehicle excise tax payment collected by the department to a county in Indiana as follows:

(1) To the county where the owner of the motorized heavy equipment vehicle maintains the place of business at which the books and records of the motorized heavy equipment vehicle are kept, if:

(A) the owner does not rent the motorized heavy equipment vehicle to others; and

(B) the place of business is located in Indiana.

(2) To the county where the owner of a motorized heavy equipment vehicle maintains the retail location from which the owner rents the motorized heavy equipment vehicle to others, if:

(A) the owner rents the motorized heavy equipment vehicle to others; and

(B) the retail location is located in Indiana.

(3) To the county designated by the owner as the last known location in Indiana of the motorized heavy equipment vehicle, if subdivisions (1) and (2) do not apply.

(b) Before July 15 of each year, the department shall distribute to each county the excise taxes that were collected by the department for the calendar year and that the department has allocated to that county. The department shall make the distribution for a county to the county treasurer.



(c) Concurrently with making a distribution of excise taxes to a county, the department shall send a motorized heavy equipment vehicle excise tax report to the county treasurer and the county auditor. The department shall prepare the report on the form prescribed by the state board of accounts. The motorized heavy equipment vehicle excise tax report must:

(1) include motorized heavy equipment vehicle identification, owner information, and information regarding the excise tax payment; and

(2) indicate the county where the motorized heavy equipment vehicle is normally kept when not in operation.

The department shall maintain records concerning the excise taxes received and distributed by the department.

(d) A county treasurer shall deposit excise tax revenue received by the county treasurer under this chapter in a separate fund to be known as the motorized heavy equipment vehicle excise tax fund. The money in the motorized heavy equipment vehicle excise tax fund must be distributed to the taxing units of the county in the same manner and proportion that property taxes are distributed to those taxing units. Money distributed to a taxing unit under this chapter shall be allocated by the taxing unit among the taxing units' funds in the same proportion that the taxing units' property tax collections are allocated among those funds.

SECTION 3. IC 6-6-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 16. Motorized Heavy Equipment Vehicle Rental Excise Tax

Sec. 1. This chapter applies only after December 31, 2016, to the rental of a taxable motorized heavy equipment vehicle.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Department" refers to the department of state revenue.

(2) "Gross retail income" means the amount of consideration, including cash, credit, property, and services, for which a taxable motorized heavy equipment vehicle is rented. The term does not include income attributed to taxes, delivery charges, installation charges, and other ancillary charges by the retail merchant that are in addition to the actual rental charge, as well as income attributed to those items listed in IC 6-2.5-1-5(b).

(3) "Motorized heavy equipment vehicle" has the meaning set forth in IC 6-6-15-2.



(4) "Person" has the meaning set forth in IC 6-2.5-1-3.

(5) "Rental" means any transfer of possession or control of a motorized heavy equipment vehicle for a period not to exceed three hundred sixty-five (365) days for consideration. The term includes the transfer of possession or control of a motorized heavy equipment vehicle for which the period of possession or control of the motorized heavy equipment vehicle is not defined by contract or for which there is an open ended contract regarding the period of possession or control of the motorized heavy equipment vehicle.

(6) "Retail merchant" has the meaning set forth in IC 6-2.5-1-8.

Sec. 3. (a) An excise tax, known as the motorized heavy equipment vehicle rental excise tax, is imposed upon the rental of a taxable motorized heavy equipment vehicle by a retail merchant of the motorized heavy equipment vehicle to another person for use in Indiana, as determined by the state in which the lessee receives delivery of or takes possession of the motorized heavy equipment vehicle, as documented by the retail merchant.

(b) The motorized heavy equipment vehicle rental excise tax imposed upon the rental of a taxable motorized heavy equipment vehicle equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) A transaction involving the rental of a taxable motorized heavy equipment vehicle is exempt from the tax imposed by this chapter if the lessee is:

- (1) the United States government;
- (2) the state;
- (3) a political subdivision (as defined in IC 36-1-2-13); or
- (4) an agency or instrumentality of an entity described in subdivisions (1) through (3).

(d) A transaction involving the rental of a taxable motorized heavy equipment vehicle is exempt from the tax imposed by this chapter if the transaction is a sublease of the taxable motorized heavy equipment vehicle from a lessee to another person.

Sec. 4. The person that rents a taxable motorized heavy equipment vehicle for the person's use is liable for the motorized heavy equipment vehicle rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 5. (a) A retail merchant shall remit the motorized heavy



1 equipment vehicle rental excise tax that the retail merchant collects
 2 under this chapter in the same manner as the state gross retail tax
 3 is remitted under IC 6-2.5.

4 (b) Each retail merchant filing a return for the motorized heavy
 5 equipment vehicle rental excise tax shall indicate in the return the
 6 retail location from which the retail merchant rented a taxable
 7 motorized heavy equipment vehicle to another person during the
 8 period covered by the return. If the location from which the retail
 9 merchant rented a taxable motorized heavy equipment vehicle to
 10 another person during the return period is outside Indiana, the
 11 return must indicate:

12 (1) the retail merchant's retail location in Indiana that is
 13 closest to the retail location outside Indiana from which the
 14 taxable motorized heavy equipment vehicle was rented, if the
 15 retail merchant has a retail location in Indiana; or

16 (2) the last known location in Indiana of the taxable motorized
 17 heavy equipment vehicle, as designated by the retail
 18 merchant, if the retail merchant does not have a retail
 19 location in Indiana.

20 (c) The motorized heavy equipment vehicle rental excise tax is
 21 considered to be imposed and collected in one (1) of the following
 22 counties, as applicable:

23 (1) The county where the owner of the taxable motorized
 24 heavy equipment vehicle maintains the retail location from
 25 which the taxable motorized heavy equipment vehicle is
 26 rented, if the retail location is in Indiana.

27 (2) The county where the owner of the taxable motorized
 28 heavy equipment vehicle maintains the retail location in
 29 Indiana that is closest to the retail location outside Indiana
 30 from which the taxable motorized heavy equipment vehicle is
 31 rented, if:

32 (A) the retail location from which the taxable motorized
 33 heavy equipment vehicle is rented is outside Indiana; and

34 (B) the owner has a retail location in Indiana.

35 (3) The county of the last known location of the taxable
 36 motorized heavy equipment vehicle, as designated by the
 37 owner of the taxable motorized heavy equipment vehicle, if:

38 (A) the retail location from which the taxable motorized
 39 heavy equipment vehicle is rented is outside Indiana; and

40 (B) the owner does not have a retail location in Indiana.

41 (d) The return to be filed for the payment of the motorized
 42 heavy equipment vehicle rental excise tax may be either a separate



1 return or may be combined with the return filed for the payment
2 of the state gross retail tax, as prescribed by the department.

3 **Sec. 6. (a) All revenues collected from the motorized heavy**
4 **equipment vehicle rental excise tax must be deposited in a special**
5 **account of the state general fund called the motorized heavy**
6 **equipment vehicle rental excise tax account.**

7 **(b) On or before July 15 of each year, all amounts held in the**
8 **motorized heavy equipment vehicle rental excise tax account must**
9 **be distributed to counties as provided in this section.**

10 **(c) The amount to be distributed to a county treasurer equals**
11 **that part of the total motorized heavy equipment vehicle rental**
12 **excise taxes being distributed that were initially imposed and**
13 **collected from within that county treasurer's county. The**
14 **department shall notify each county auditor of the amount of taxes**
15 **to be distributed to the county treasurer. At the same time each**
16 **distribution is made to a county treasurer, the department shall**
17 **certify to the county auditor the taxing districts within the county**
18 **where motorized heavy equipment vehicle rental excise taxes were**
19 **collected and the amount of the county distribution that was**
20 **collected with respect to each taxing district.**

21 **(d) A county treasurer shall deposit motorized heavy equipment**
22 **vehicle rental excise tax distributions in a separate account for**
23 **settlement at the same time as property taxes are accounted for**
24 **and settled in June and December of each year.**

25 **(e) The county auditor shall apportion and the county treasurer**
26 **shall distribute the motorized heavy equipment vehicle rental**
27 **excise taxes among the taxing units of the county in the same**
28 **manner that property taxes are apportioned and distributed with**
29 **respect to property located in the taxing district where the**
30 **motorized heavy equipment vehicle rental excise tax was allocated**
31 **by the department. The motorized heavy equipment vehicle rental**
32 **excise taxes distributed to a taxing unit must be allocated among**
33 **the taxing unit's funds in the same proportion that the taxing unit's**
34 **property tax collections are allocated among those funds.**

35 **(f) Taxing units of a county may request and receive advances**
36 **of motorized heavy equipment vehicle rental excise tax revenues in**
37 **the manner provided under IC 5-13-6-3.**

38 **(g) All distributions from the motorized heavy equipment**
39 **vehicle rental excise tax account must be made by warrants issued**
40 **by the auditor of state to the treasurer of state ordering those**
41 **distributions to the appropriate county treasurer.**

42 **SECTION 4. IC 6-8.1-1-1, AS AMENDED BY P.L.220-2014,**



1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 2 JULY 1, 2016]: Sec. 1. "Listed taxes" or "taxes" includes only the
 3 pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the riverboat
 4 admissions tax (IC 4-33-12); the riverboat wagering tax (IC 4-33-13);
 5 the slot machine wagering tax (IC 4-35-8); the type II gambling game
 6 excise tax (IC 4-36-9); the gross income tax (IC 6-2.1) (repealed); the
 7 utility receipts and utility services use taxes (IC 6-2.3); the state gross
 8 retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3);
 9 the supplemental net income tax (IC 6-3-8) (repealed); the county
 10 adjusted gross income tax (IC 6-3.5-1.1); the county option income tax
 11 (IC 6-3.5-6); the county economic development income tax
 12 (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial
 13 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the special fuel
 14 tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax
 15 collected under a reciprocal agreement under IC 6-8.1-3; the motor
 16 vehicle excise tax (IC 6-6-5); the aviation fuel excise tax (IC 6-6-13);
 17 the commercial vehicle excise tax (IC 6-6-5.5); the excise tax imposed
 18 on recreational vehicles and truck campers (IC 6-6-5.1); the hazardous
 19 waste disposal tax (IC 6-6-6.6) (repealed); **the motorized heavy**
 20 **equipment vehicle excise tax (IC 6-6-15); the motorized heavy**
 21 **equipment vehicle rental excise tax (IC 6-6-16);** the cigarette tax
 22 (IC 6-7-1); the beer excise tax (IC 7.1-4-2); the liquor excise tax
 23 (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax
 24 (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum
 25 severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the
 26 various food and beverage taxes (IC 6-9); the county admissions tax
 27 (IC 6-9-13 and IC 6-9-28); the regional transportation improvement
 28 income tax (IC 8-24-17); the oil inspection fee (IC 16-44-2); the
 29 emergency and hazardous chemical inventory form fee (IC 6-6-10)
 30 (repealed); the penalties assessed for oversize vehicles (IC 9-20-3 and
 31 IC 9-30); the fees and penalties assessed for overweight vehicles
 32 (IC 9-20-4 and IC 9-30); and any other tax or fee that the department
 33 is required to collect or administer.

